

§ 38. Administration of Walsh-Healey provisions; officers and employees; appointment; investigations; rules and regulations

The Secretary of Labor is authorized and directed to administer the provisions of sections 35 to 45 of this title and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees as he may find necessary to assist in the administration of said sections and to prescribe rules and regulations with respect thereto. The Secretary shall appoint, subject to chapter 51 and subchapter III of chapter 53 of title 5, an administrative officer, and such attorneys and experts, and other employees with regard to existing laws applicable to the employment and compensation of officers and employees of the United States, as he may from time to time find necessary for the administration of sections 35 to 45 of this title. The Secretary of Labor or his authorized representatives shall have power to make investigations and findings as provided in sections 35 to 45 of this title, and prosecute any inquiry necessary to his functions in any part of the United States. The Secretary of Labor shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of sections 35 to 45 of this title.

(June 30, 1936, ch. 881, § 4, 49 Stat. 2038; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

CODIFICATION

Provisions of second sentence of this section that authorized the Secretary to appoint an administrative officer and such attorneys and experts “without regard to the provisions of the civil service laws” were omitted as obsolete. Such appointments are subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees.

“Chapter 51 and subchapter III of chapter 53 of title 5” substituted in text for “the Classification Act of 1949, as amended” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

For transfer of functions of all other officers, employees, and agencies of Department of Labor, with certain exceptions, to Secretary of Labor, with power to delegate, see Reorg. Plan No. 6 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43a, 353 of this title; title 25 section 450j; title 40 section 3704.

§ 39. Hearings on Walsh-Healey provisions by Secretary of Labor; witness fees; failure to obey order; punishment

Upon his own motion or on application of any person affected by any ruling of any agency of the United States in relation to any proposal or contract involving any of the provisions of sections 35 to 45 of this title, and on complaint of a breach or violation of any representation or stipulation as provided in said sections, the Secretary of Labor, or an impartial representative designated by him, shall have the power to hold hearings and to issue orders requiring the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy, failure, or refusal of any person to obey such an order, any District Court of the United States or of any Territory or possession within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person who is guilty of contumacy, failure, or refusal is found, or resides or transacts business, upon the application by the Secretary of Labor or representative designated by him, shall have jurisdiction to issue to such person an order requiring such person to appear before him or representative designated by him, to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof; and shall make findings of fact after notice and hearing, which findings shall be conclusive upon all agencies of the United States, and if supported by the preponderance of the evidence, shall be conclusive in any court of the United States; and the Secretary of Labor or authorized representative shall have the power, and is authorized, to make such decisions, based upon findings of fact, as are deemed to be necessary to enforce the provisions of sections 35 to 45 of this title.

(June 30, 1936, ch. 881, § 5, 49 Stat. 2038; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CODIFICATION

As originally enacted, the words “, or the district court of the United States for the District of Columbia,” were set out following “Territory or possession”. Act June 25, 1948, as amended by act May 24, 1949, substituted “United States District Court for the District of Columbia” for “district court of the United States for the District of Columbia”. The words “United States District Court for the District of Columbia” have been deleted entirely as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which states that “There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district”, and section 88 of title 28 which states that “the District of Columbia constitutes one judicial district”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43a, 353 of this title; title 25 section 450j; title 33 section 941; title 40 section 3704.